

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY T. RUCANO, I

Plaintiff,

v.

9:18-CV-0218
(GTS/CFH)

D. VENETTOZZI, Dir. of Special Housing/Inmate Disciplinary Program (“IDP”), NYS DOCCS;
A. RODRIGUEZ, Acting Dir. of Special Housing/IDP, NYS DOCCS; MICHAEL KIRKPATRICK, Super., Clinton C.F.; D. UHLER, Super., Upstate C.F.; LT. DURKIN, Lt., Clinton C.F.; R. BISHOP, Captain, Clinton C.F.; P. DEVLIN, Captain, Clinton C.F.; G.T. KING, Sgt., Clinton C.F.; J. KOWALOWSKI, Rec. Program Leader II, Clinton C.F.; J. BREYETTE, Corr. Officer, Clinton C.F.; and OFFICER TUCKER, Corr. Officer, Clinton C.F.,

Defendants.

APPEARANCES:

ANTHONY T. RUCANO, I
Plaintiff, *Pro Se*
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New York, New York 10001

THE WAGONER FIRM, PLLC
Counsel for Defendants Bishop, Breyette,
Devlin, Durkin, King, Kirkpatrick, Rodriguez,
Tucker, Uhler and Venettozzi
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Buffalo, New York 14202

OF COUNSEL:

MATTHEW D. WAGONER, ESQ.

VINCENT M. MIRANDA, ESQ.

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Anthony T. Rucano, I (“Plaintiff”) against the eleven above-captioned employees of the New York State Department of Corrections and Community Supervision (“Defendants”) pursuant to 42 U.S.C. § 1983, are (1) a motion for summary judgment filed by Defendants Bishop, Breyette, Devlin, Durkin, King, Kirkpatrick, Rodriguez, Tucker, Uhler and Venetozzi, (2) a motion for summary judgment filed by Defendant Kowalowski, and (3) United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that Defendants’ motions be granted and that Plaintiff’s Second Amended Complaint be dismissed with prejudice in its entirety. (Dkt. Nos. 178, 179, 197.) Neither party has filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.¹ Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein.

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear-error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear-error review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 197) is

ACCEPTED and **ADOPTED** in its entirety; and it is further

ORDERED that the motion for summary judgment filed by Defendants Bishop, Breyette,

Devlin, Durkin, King, Kirkpatrick, Rodriguez, Tucker, Uhler and Venetozzi (Dkt. No. 178) is

GRANTED; and it is further

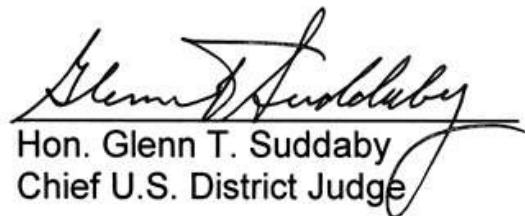
ORDERED that the motion for summary judgment filed by Defendant Kowalowski

(Dkt. No. 179) is **GRANTED**; and it is further

ORDERED that Plaintiff's Second Amended Complaint (Dkt. No. 25) is **DISMISSED**

with prejudice in its entirety.

Dated: August 2, 2021
Syracuse, New York



Hon. Glenn T. Suddaby
Chief U.S. District Judge